

DOCTORS NOVA SCOTIA BENEFITS TRUST FUND

**AMENDMENT (No. 3) TO DECLARATION OF TRUST
MADE THE 22ND DAY OF APRIL, 1994,
ESTABLISHING THE MEDICAL SOCIETY OF NOVA SCOTIA
BENEFITS PROGRAM TRUST FUND (the “Doctors Nova Scotia Benefits Trust Fund”)**

WHEREAS:

1. The Medical Society of Nova Scotia now carries on its activities and has carried on its activities since March 16, 2004 under the name of Doctors Nova Scotia; and
2. Doctors Nova Scotia finds it desirable to amend the Declaration of Trust made the 22nd day of April, 1994, as amended on the 30th day of September, 2000 and as further amended by Amendment No. 2 in October 2004 (the “**Amended Declaration of Trust**”);

NOW THEREFORE Doctors Nova Scotia declares as follows:

3. The Amended Declaration of Trust shall be amended by deleting the definition for “Benefits Program” in Section 1.02, and replacing it with the following definition for “Benefits Program”:

1.02 “**Benefits Program**” shall mean a Private Health Services Plan in the form of a Extended Health and Dental Program or other such similar program or programs developed and instituted for the benefit of the Subscribing Members of the Society and their Employees.

4. The Amended Declaration of Trust shall be amended by deleting the definition for “Contributions” in Section 1.04, and replacing it with the following definition for “Contributions”:

1.04 “**Contributions**” shall mean payment to the Trust Fund pursuant to this Declaration of Trust by the Society on behalf of the Subscribing Members and Employees or by the Subscribing Members and Employees directly.

5. The Amended Declaration of Trust shall be amended by deleting the definition for “Member Benefits Fund” in Section 1.07, and replacing it with the following definition for “Member Benefits Fund”, which shall be renumbered as Section 1.08:

1.08 “**Member Benefits Fund**” shall mean the funds contributed by the Province of Nova Scotia and administered by the Society for purposes of compensating the Society’s members with a variety of health, dental and other benefit programs, a portion of which funds are made available to the Trustees for

purposes of administering the Benefits Program in accordance with this Declaration of Trust.

6. The Amended Declaration of Trust shall be amended by deleting the definition for “Plan” in Section 1.08, and replacing it with the following definition for “Plan”, which shall be renumbered as Section 1.09:

1.09 **Plan** shall mean any plan emanating from the Benefits Program and qualifying as a Private Health Services Plan together with attendant rules and regulations as may be approved by the Board of Directors upon the recommendation of the Trustees.

7. Section 1.09 of the Amended Declaration of Trust shall be renumbered as Section 1.11;

8. The Amended Declaration of Trust shall be amended by deleting the definition for “Subscribing Member” in Section 1.10, and replacing it with the following definition for “Subscribing Member”, which shall be renumbered as Section 1.12:

1.12 **Subscribing Member** shall mean any person who is a member of the Society, who is determined to be eligible by the Society to participate under the Benefits Program and is approved to participate under the Benefits Program by the Trustees.

9. Section 1.11 of the Amended Declaration of Trust shall be renumbered as Section 1.13;

10. Section 1.12 of the Amended Declaration of Trust shall be renumbered as Section 1.14;

11. Section 1.13 of the Amended Declaration of Trust shall be renumbered as Section 1.15;

12. A new Section 1.07 shall be added, which shall read as follows:

1.07 **Employee** shall mean an individual employed by the Society who meets the eligibility requirements of the Benefits Program and is approved for coverage under the Benefits Program by the Trustees.

13. A new Section 1.10 shall be added, which shall read as follows:

1.10 **Private Health Services Plan** shall mean as defined in s.248(1) of the Income Tax Act.

14. Section 2.04 of the Amended Declaration of Trust shall be amended by the addition of “, Employees,” between “Subscribing Members” and “and their eligible dependents”;

15. The Amended Declaration of Trust shall be amended by deleting Paragraph 4.01(k) and replacing it with the following:

(k) prescribe procedures to be followed by Subscribing Members and Employees in filing applications for benefits and for the furnishing and verification of evidence necessary to establish the Subscribing Members' and Employee rights under any Plan;

16. Paragraph 4.01(p) of the Amended Declaration of Trust shall be amended by the addition of “, Employee,” between “Subscribing Member” and “or any other person”;
17. Paragraph 4.01(t) of the Amended Declaration of Trust shall be amended by the addition of “and Employees” between “Subscribing Members” and “in such circumstances”;
18. Paragraph 4.01(v) of the Amended Declaration of Trust shall be amended by the addition of “any Employee,” between “Subscribing Member,” and “any Government Agency”;
19. Clause 4.01(x)(ii) of the Amended Declaration of Trust shall be amended by the addition of “, Employees,” between “Subscribing Members,” and “and their eligible dependents”;
20. Section 5.02 of the Amended Declaration of Trust shall be amended by the addition of “Employees,” between “Subscribing Members,” and “and their eligible dependents”;
21. Section 5.02 of the Amended Declaration of Trust shall be amended by the addition of “or Employee” preceding the period at the end of the Section;
22. Section 5.07 of the Amended Declaration of Trust shall be amended by the addition of “, Employees,” between “Subscribing Members,” and “and their eligible dependents”;
23. Section 7.02 of the Amended Declaration of Trust shall be amended by the addition of “or Employees” between “Subscribing Members” and “and such beneficiaries”;
24. Section 8.01 of the Amended Declaration of Trust shall be amended by the addition of “and Employees” preceding the period at the end of the Section;
25. The Amended Declaration of Trust shall be amended by deleting Section 8.02 and replacing it with the following:

8.02 The Trustees shall prescribe rules and procedures governing the application by Subscribing Members, Employees, and dependents for benefits, and the furnishing of any evidence necessary to establish the rights of Subscribing Members or Employees and dependents to such benefits.

26. Section 8.03 of the Amended Declaration of Trust shall be amended by the addition of “or Employee” between “Subscribing Member” and “and any dependent”;
27. Paragraph 8.06(b) of the Amended Declaration of Trust shall be amended by the addition of “, Employees” between “Subscribing Members,” and “and others”;

28. The Amended Declaration of Trust shall be amended by deleting Section 8.07 and replacing it with the following:

8.07 No Subscribing Member, Employee, or any person claiming by or through such Subscribing member or Employee, including their family, dependents, beneficiaries and/or legal representative, shall have any right, title, or interest in or to the Trust Fund or any property of the Trust Fund or any part thereof except as may be specifically determined by the Trustees in accordance with the terms of any Plan.

29. Section 8.08 of the Amended Declaration of Trust shall be amended by the addition of “or Employee” between “Subscribing Member” and “who feels aggrieved”;
30. Section 10.02 of the Amended Declaration of Trust shall be amended by the addition of “, Employees,” between “Subscribing Members,” and “or any other person”;
31. Section 10.04 of the Amended Declaration of Trust shall be amended by the addition of “and Employee,” between “Subscribing Member” and “, in summary form”;
32. The Amended Declaration of Trust shall be amended by deleting Section 10.09 and replacing it with the following:

10.09 No money, property, equity or interest of any nature whatsoever in the Trust Fund or in any benefits or monies payable therefrom shall be subject in any manner by any Subscribing Member, Employee, retired Subscribing Member, retired Employee, or beneficiary or person claiming through any of them to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, garnishment, lien or charge; and any attempt to cause the same to be subject thereto shall be null and void.

33. The Amended Declaration of Trust, as further amended by this Amendment (No. 3) to the Declaration of Trust, and as more particularly set out in Appendix “A” to this Amendment shall continue in full force and effect and continue to be known as the Doctors Nova Scotia Benefits Trust Fund.

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DATED with effect as of the _____ day of _____, 2008.

SIGNED, SEALED AND DELIVERED
in the presence of

**BOARD OF DIRECTORS OF
DOCTORS NOVA SCOTIA**

Witness

Witness

Witness

APPENDIX "A"

DOCTORS NOVA SCOTIA BENEFITS TRUST FUND

(AS AMENDED BY AN AMENDMENT ON SEPTEMBER 30, 2000 AND AMENDMENT NO. 2 OF OCTOBER, 2004, AND AMENDMENT NO. 3 OF _____, 2008)

THIS DECLARATION OF TRUST made as of the 22nd day of April, 1994, establishing the Doctors Nova Scotia Benefits Program Trust Fund (the "Doctors Nova Scotia Benefits Trust Fund").

WHEREAS Doctors Nova Scotia Society finds it desirable to establish a benefits program for its members;

AND WHEREAS Doctors Nova Scotia wishes to establish a trust fund for the purpose of providing this benefits program to its members;

AND WHEREAS Doctors Nova Scotia shall, in consideration of the Trustees agreeing to assume the obligations of the Trustees, transfer funds to the Trustees in trust for the maintenance of the benefits program as set out in this Declaration of Trust;

AND WHEREAS this Declaration of Trust establishes the Doctors Nova Scotia Benefits Trust Fund and the rules and regulations governing the same;

NOW THEREFORE Doctors Nova Scotia declares as follows:

1. **ARTICLE I - DEFINITIONS**

The definitions as stated in this Article shall apply to this Declaration of Trust, the Benefits Program (as defined herein) any rules or regulations adopted pursuant thereto, and to the agreements with financial institutions for the investment of the assets and their reinvestment, except as may be otherwise specifically provided.

1.01 **"Administrator"** means the agency, firm or corporation which the Trustees may appoint for the sound and efficient administration of the Benefit Program provided that all documents, records and files held by the said agency, firm or corporation with respect to the administration of the Trust Fund shall be the property of the Trustees.

1.02 **"Benefits Program"** shall mean a Private Health Services Plan in the form of a Extended Health and Dental Program or other such similar program or programs developed and instituted for the benefit of the Subscribing Members of the Society and their Employees.

1.03 **"Board of Directors"** shall mean the Board of Directors of Doctors Nova Scotia.

1.04 **"Contributions"** shall mean payment to the Trust Fund pursuant to this Declaration of Trust by the Society on behalf of the Subscribing Members and Employees or by the Subscribing Members and Employees directly.

1.05 **"Declaration of Trust"** or **"Declaration"** means this instrument including all amendments, supplements and modifications hereto.

1.06 **"Fiscal Year"** shall mean the period from September 1 to August 31.

1.07 **"Employee"** shall mean an individual employed by the Society who meets the eligibility requirements of the Benefits Program and is approved for coverage under the Benefits Program by the Trustees.

1.08 **"Member Benefits Fund"** shall mean the funds contributed by the Province of Nova Scotia and administered by the Society for purposes of compensating the Society's members with a variety of health, dental and other benefit programs, a portion of which funds are made available to the Trustees for purposes of administering the Benefits Program in accordance with this Declaration of Trust.

1.09 **"Plan"** shall mean any plan emanating from the Benefits Program and qualifying as a Private Health Services Plan together with attendant rules and regulations as may be approved by the Board of Directors upon the recommendation of the Trustees.

1.10 **"Private Health Services Plan"** shall mean as defined in s.248(1) of the Income Tax Act.

1.11 **"Society"** shall mean Doctors Nova Scotia.

1.12 **"Subscribing Member"** shall mean any person who is a member of the Society, who is determined to be eligible by the Society to participate under the Benefits Program and is approved to participate under the Benefits Program by the Trustees.

1.13 **"Trustee"** shall mean any person designated as a Trustee pursuant to the Article III hereof. **"Trustees"** or **"Board of Trustees"** means Trustees collectively and shall mean their successors when acting as Trustees.

1.14 **"Trust Fund"** shall mean the trust fund established and administered in accordance with this Declaration of Trust, consisting of all assets held by or for the credit of the Trustees.

1.15 **General Interpretations:**

Unless otherwise specified the following shall be applicable:

- (a) Whenever power is given to any person, officer or. functionary to do or enforce the doing of such act or thing, all such powers shall be understood as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing.
- (b) When any act or thing is to be done by more than two persons, a majority of them may do it.
- (c) Whenever forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, do not invalidate them.
- (d) If a power is conferred or a duty imposed on the holder of any office as such, the power may be exercised and the duty shall be performed by the holder for the time being of the office.
- (e) If a power is conferred to make or adopt any rules, regulations or by-laws, the power shall be construed as including; a power, exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary the rules, regulations or by-laws and make or adopt others.
- (f) Words importing the female person include male persons (and vice versa), and corporations.

- (g) Words in the singular include the plural and words in the plural include the singular.
- (h) Words authorizing the appointment of any officer or functionary, or any deputy, include the power of removing or suspending them, reappointing or reinstating them, or appointing another in their stead in the discretion of the authority in whom the power of appointment is vested.

2. **ARTICLE II - TRUST FUND**

2.01 The Society hereby establishes a Trust Fund consisting of such sums of money and such property acceptable to the Trustees as shall from time to time be paid and delivered to the Trustees in accordance with the provisions of this Declaration of Trust and the earnings and profits thereon. The Contributions so received together with the income therefrom will be held, invested, managed and administered pursuant to the terms hereof. The Trustees shall not be responsible for the collection of the funds required by the Benefits Program to be paid to the Trustees.

2.02 The Trustees are hereby designated as the persons to receive the Contributions and the Trustees are vested with all right, title and interest in and to the Trust Fund for the uses, purposes and duties set forth in this Declaration of Trust.

2.03 The Trust Fund shall be held by the Trustees in trust and dealt with in accordance with the provisions of this Declaration of Trust.

2.04 The Trust Fund is hereby created and established and the Trustees agree to receive the Trust Fund, hold and administer them for the purposes of providing a Benefits Program for the Subscribing Members, Employees, and their eligible dependents in accordance with this Declaration of Trust.

2.05 The Board of Trustees shall, in its sole and absolute discretion and subject to the terms of this Declaration of Trust, use the monies available in the Trust Fund to provide a Benefits Program.

3. **ARTICLE III – TRUSTEES**

3.01 The Board of Trustees shall consist of five persons resident in Nova Scotia, to be appointed by the Board of Directors.

3.02 The Board of Trustees shall determine the time and place for its regular periodic meetings. Any two members of the Board of Trustees may call a special meeting of the Board of Trustees by giving written notice to the other Trustees of the time and place of such meetings at least five days before the date set for such meeting. Any meetings at which all Trustees are present, or concerning which all Trustees have waived notice in writing shall be a 'valid meeting without the giving of any notice.

3.03 The Trustees shall annually select one of their number as Chairperson of the Board of Trustees and one person to be Secretary who may or may not be a Trustee provided that if the Chairperson and/or the Secretary of the Board of Trustees is/are not present at any meeting of Trustees, those present may select another or other in her or their place or stead for the purposes of such meeting.

3.04 To constitute a quorum at any regular or special meeting of the Board of Trustees, there must be present a majority of the Trustees.

3.05 Unless otherwise provided in this Declaration of Trust all decisions of the Trustees shall be made by a majority vote of those present and voting at a duly called meeting of the Trustees or by unanimous vote of all Trustees in writing without a meeting. Each Trustee shall have one (1) vote. In the event of an equality of votes, the Chairperson of the Board of Trustees shall not have a deciding vote.

3.06 Save as herein provided, the most recent edition of Roberts' Rules of Order shall cover the proceedings of the Board of Trustees. The Trustees shall establish procedural rules governing, among other things, calling and conducting meetings. Any such rules shall be consistent with this Declaration of Trust.

3.07 Any Trustee may resign by giving written notice to the Board of Directors and to the other Trustees.

3.08 In the event of removal of a Trustee by the Board of Directors or by the resignation, death or disqualification, disability or refusal to act of any such Trustee, a successor Trustee shall be appointed by the Board of Directors.

3.09 The Board of Directors, upon appointing a Trustee, shall give written notice of the appointment to the Secretary of the Board of Trustees within eight days of such appointment.

3.10 Each Trustee shall be appointed for a three year term unless prior to the end of their term they are unable to act due to incapacity or death, resignation or removal pursuant to the terms of this Declaration; provided however, that the initial Board of Trustees shall be appointed such that:

- (a) Two shall serve a one year term,
- (b) Two shall serve a two year term, and
- (c) One shall serve a three year term.

At the expiration of any term, the Trustees whose term has expired or any of the, may be re-appointed by the Board of Directors provided that no Trustee shall serve for more than two (2) consecutive three (3) year terms or a period of six consecutive years.

3.11 A Trustee named or referred to in the foregoing section, upon signing the Acceptance of Trusteeship, in the form attached hereto as Appendix "A". shall be deemed to accept the trust and consent to act as Trustee and agree to administer the Trust Fund as provided herein.

3.12 Any Successor Trustee shall be vested with all the rights and duties of a Trustee upon signing an Acceptance of Trusteeship attached as Appendix "A". Any insurance company or trust company and all other companies or persons connected with the administration of the Trust Fund shall be immediately notified by the Secretary of the Board of Trustees of the appointment of a successor Trustee.

3.13 Each Trustee, by signing the Acceptance of Trusteeship, hereby constitutes and elects the remaining Trustees her attorneys to sign all documents and deeds in her name in the event of her ceasing to be a Trustee and the said remaining Trustees shall have the authority to delegate their powers to any one of the remaining Trustees who shall take the place and stead of the person ceasing to be a Trustee, until such time as a new Trustee is named.

3.14 The Society shall, in consideration for the Trustees signing the Acceptance of Trusteeship and assuming the obligations of Trustees under this Declaration of Trust, respond to the demands of the Trustees for payments to the Trust Fund in accordance with this Declaration of Trust.

3.15 In the event of the refusal, disability, or incapacity for any reason of a Trustee to act as a Trustee, the remaining Trustee or Trustees shall exercise any and all of the powers of the Trustees for a reasonable time pending the active assumption by such non-acting Trustee, or her successor, of the powers, duties and obligations of a Trustee.

3.16 No person shall be appointed a Trustee unless they are bonded. The Society and/or the Trustees, may apply to a duly licensed security company for the purposes of bonding the Trustees. All costs, including payment of the premiums, incurred in connection with the bonding of the Trustees shall be at the expense of the Trust Fund. Each Trustee, and the Board of Directors shall co-operate fully in any application for bonding and shall on demand complete such documentation and supply such information as may be required.

3.17 No person shall be ineligible to hold office of Trustee, nor shall she have a conflict of interest in performing her duties as Trustee as described therein, for reason only that she is a member, officer, employee or Subscribing Member of the Society.

3.18 A Trustee may be removed as Trustee prior to the expiration of her term of office by the Board of Directors where such Trustee:

- (a) Misappropriates any funds or property of the Trust Fund directly or indirectly;
- (b) Attempts to obtain any personal profit from any transaction directly or indirectly involving the Trust Fund;
- (c) Unreasonably neglects or refuses to perform the duties assigned under this Declaration of Trust;
- (d) Is adjudicated as bankrupt;

- (e) Acts or fails to act (in bad faith or otherwise) to the detriment of the Declaration of the Declaration of Trust, or the Trust Fund;
- (f) Is convicted of an indictable offence; or
- (g) Is a professional whose right to practice such profession has been suspended, terminated, or revoked by any court, tribunal, or professional organization.

Such removed Trustee shall be fully discharged from all future duty or responsibility for future acts herein, and the authority of any such Trustee shall be terminated in all respects from the earlier of 48 hours after the date of such written notice and the date it is deemed by the Board of Directors to be received by the Secretary personally at her office or otherwise.

3.19 The Trustees shall report to the Board of Directors in the form and extent required by the Board of Directors.

3.20 All documents or instruments, cheques, drafts or orders for payment of money and notes, acceptances and bills of exchange shall require the signature of at least two Trustees or as otherwise stipulated by specific resolution of the Trustees. No expenditures shall be made except by approval of the Trustees at a regularly constituted meeting of the Trustees.

4. **ARTICLE IV - POWER OF TRUSTEES**

4.01 The administration of the Trust Fund and the Benefits Program shall be vested wholly in the Trustees and for such administration the Trustees shall, consistent with the purposes of the Trust Fund, have the power and authority to:

- (a) invest the monies of the Trust Fund in such manner as they deem appropriate;
- (b) sell for cash or credit, convert, redeem, exchange for other short-term securities or otherwise dispose of, any securities or other property at any time held by them and otherwise generally to act as owner and to exercise all rights incident to ownership thereof;
- (c) pay or provide for the payment of all reasonable and necessary expenses, costs and fees incurred by the Trustees in connection with the establishment and maintenance of the Trust Fund and the Benefits Program and the employment of such professional expert, or clerical assistance as the Trustees in their discretion deem necessary or appropriate in the performance of their duties, provided that all such payments are made firstly from income of the trust fund, should any exist;
- (d) pay or provide for payment of all real or personal property taxes, income and other taxes or assessments of any and all kinds levied or assessed under existing

or future laws upon or in respect to the Trust Fund or any money or property forming part thereof, provided that all such payments are made firstly from income of the trust fund, should any exist;

- (e) lease or purchase such premises, materials, supplies and equipment and employ, or retain and follow the advice of, such legal counsel, investment counsel, administrative, consulting, accounting, actuarial, clerical and other assistance or employees as in their discretion they may find necessary or advisable in the performance of their duties in the administration of the Benefits Program and to pay the salaries or costs thereof out of the Trust Fund;
- (f) enter into contracts with insurance companies and pay or provide for the payment of any funds thereby required in order to provide the benefits under this Declaration of Trust as to the Trustees seem appropriate, provided that all such payments are made firstly from income of the trust fund, should any exist;
- (g) authorize representatives of the Administrator to issue cheques for premiums or other similar regular payments required to be paid to institute and maintain any benefits flowing from any Plan;
- (h) appoint a trust company authorized to carry on business in the Province of Nova Scotia as corporate trustee to execute all or any of the powers and duties hereby given to and imposed on the Trustees and to assist in the administration of the Trust Fund, to the extent the Trustees consider it advisable to do so. The Trustees shall have full power and authority to enter into any agreement or agreements with such corporate trustee and to grant to the corporate trustee such powers as they in their absolute discretion deem to be in the best interests of the Trust Fund. The corporate trustee shall assume whatever duties and responsibilities as may be delegated to it by the Trustees and shall be required to make periodic reports of its operations in respect of the Trust Fund to the Trustees and to receive periodic instructions from them as to the action to be taken and/or policy to be followed with respect to the Trust Fund;
- (i) recommend to the Board of Directors the establishment of all Plans to be included in the Benefits Program;
- (j) supervise, interpret and construe any Plan and to determine all questions of eligibility for coverage under any Plan and change or modify the eligibility rules from time to time, and to determine dates of birth, membership status, computation of benefits, value of benefits and all related matters with respect to any Plan;
- (k) prescribe procedures to be followed by Subscribing Members and Employees in filing applications for benefits and for the furnishing and verification of evidence necessary to establish the Subscribing Members' and Employee rights under any Plan;

- (l) exercise all rights or privileges granted by the provisions of any contract entered into by the Trustees with any insurance company, bank or trust company and to agree with such insurance company, bank or trust company to any alteration, modification, amendment or cancellation of such contract, or to take any other action respecting such contracts which they in their discretion may deem necessary or advisable;
- (m) invest or reinvest such funds as are not necessary for current expenditures as they may from time to time determine in such investments as are permitted by any laws governing trustees with respect of such matters;
- (n) delegate to the corporation or firm authorized to act in such capacity, such duties and responsibilities with respect to investing and reinvesting of the Trust Fund assets as they shall specify in such delegation; the Trustees, acting in good faith, shall not be liable for any act or omission of such corporation or firm, in the discharge of the duties delegated to it or them or for any loss arising from any such act or omission;
- (o) enter into agreements, contracts and other instruments for the deposit of funds with banks, trust companies and other institutions, which accept and hold monies on deposit, and to authorize such depository to act as custodian of the funds whether in cash or securities or other property and to authorize such depository or depositories to convert, invest and reinvest the funds, entirely or in part, in such securities as are permitted by any laws governing trustees with respect to such matters;
- (p) decide all questions or controversies arising in any manner or between any parties or persons in connection with Trust Fund or the operation thereof, whether as to any claim for benefits by an Subscribing Member, Employee, or any other person, or as to the construction of the language or meaning of this Declaration or the Benefit Program or of the rules and regulations adopted by the Trustees under either of them, or as to any writing, decision, instrument, or accounts in connection with the operation of the Trust Fund or otherwise, and the decision of the Trustees shall be binding upon all persons dealing with the Trust Fund or claiming any benefits thereunder;
- (q) settle, compromise, submit to arbitration and/or release any claim, debts, demands or damages, due to or owing from the. Trust Fund or any Plan, to commence or defend suits or legal proceedings and to represent the Trust Fund, Trustees, or either of them, in all suits and legal proceedings;
- (r) make appropriate allocations of common administrative expenses and disbursements shared or to be shared among any Plans and with any other fund;

- (s) obtain liability insurance for the Trust Fund, the Trustees and their agents and to pay the premiums for any insurance out of the Trust Fund;
- (t) receive contributions or payments from any source whatsoever to the extent permitted by law and also directly from the Subscribing Members and Employees in such circumstances as the Trustees consider appropriate and proper, including such circumstances where a "pay-direct" or a "self-pay" Contributions are considered appropriate and proper as part of any Plan established under the Benefits Program; or
- (u) make demands of the Society for such payments to the Trust Fund as the Trustees deem necessary for the maintenance of the Benefits Program;
- (v) obtain from the Society, any Subscribing Member, any Employee, any Government Agency, or any other person or body such information as may be necessary for proper administration of any Plan;
- (w) establish and accumulate from the contributions, as part of the Trust Fund a reserve or reserves, adequate, in the opinion of the Trustees, to carry out the purpose of the Trust Fund;
- (x) in addition to such other powers as set forth herein or conferred by law, the Trustees shall have power to:
 - (i) sell, exchange, lease, convey, or dispose of any property at any time forming part of the Trust Fund or the whole thereof upon such terms as they may deem proper and to effect and deliver any and all instruments of conveyance and transfer, in connection therewith;
 - (ii) enter into any and all contracts and agreements for carrying out the terms of this Declaration and for the administration of the Trust Fund and to do all acts as they, in their discretion, may deem necessary or advisable and such contracts, agreement or acts shall be binding and conclusive on the Society, the Subscribing Members, Employees, and their eligible dependents, families, beneficiaries and/or legal representatives;
 - (iii) do all acts not inconsistent with the provisions of this Declaration, whether or not expressly authorized herein which the Trustees deem necessary or proper for the protection of the Trust Fund held hereunder and the administration of the Benefits Program;
 - (iv) generally to exercise any of the powers of an owner with respect to stocks, bonds, debentures, mortgages, or other investments and property held in the Trust Fund and in particular, but without limiting the generality of the foregoing, to cause any securities or other property held as part of the Trust Fund to be registered in the name of the Trustees or in the name of

one or more nominees; to exercise any right there may be to vote in connection therewith; to give general or special proxies or powers of attorney with or without powers of substitution, to exercise any conversion privilege, subscription rights or other options as a result of corporate reorganizations or changes affecting corporate shares or securities; and

- (y) renew or extend or participate in the renewal or extension of any mortgage, upon such terms as may be deemed advisable, and to agree to reduction in the rate of interest on any mortgage or to any other modification or change in the terms of any mortgage or of any guarantee pertaining thereto in any manner or to any extent that may be deemed advisable for the protection of the Trust Fund or the preservation of the value of an investment; to waive any default whether in the performance of a covenant or condition in any mortgage, or in the performance of any guarantee or to enforce any rights in respect to any such default in such manner and to such extent as may be deemed advisable; to exercise and enforce any and all rights of foreclosure, to bid on property in a judicial sale, to take a deed in lieu of foreclosure with or without paying a consideration therefore, and in connection therewith to release any person or persons from their covenant or guarantee given in connection with such mortgage and to exercise and enforce by an action, suit or proceeding at law or in equity any rights or obligations or to take appropriate measures by way of proceedings at law or otherwise for the enforcement or realization of any investment.
- (z) Make any elections under the Income Tax Act which would be for the benefit of the Society, the Trust Fund and the Subscribing members.

5. **ARTICLE V - ADMINISTRATION OF TRUST FUND**

5.01 The Trustees shall make such uniform rules and regulations as are consistent with and necessary for effectuating the provisions of this Declaration of Trust.

5.02 The Trustees shall have the power to construe the provisions of this Declaration of Trust and the Benefit Program and the terms used therein, and any construction adopted by the Trustees in good faith shall be binding upon the Society, Subscribing Members, Employees, and their eligible dependents, families, beneficiaries and/or legal representatives.

5.03 The Trustees shall promulgate such rules and regulations as may in their discretion be deemed proper and necessary for the sound and efficient administration of the Trust Fund; PROVIDED, that such requirements, rules, and regulations are not inconsistent with this Declaration of Trust.

5.04 A Trustee shall be reimbursed from the Members Benefits Fund for the reasonable expenses incurred through their attendance (such honorarium as may be approved by the Board of Directors) at each meeting of the Board of Trustees.

5.05 The Trustees shall administer the Trust Fund and the Benefits Program, but in so doing, the Trustees are authorized to appoint and remove from time to time, such agents or employees as the Trustees deem necessary to assist in handling the management of the Trust Fund, and the Trustees may delegate any of their administrative powers or duties herein to any of their agents or employees.

5.06 The Trustees shall keep true and accurate books of accounts and records of all their transactions which shall be open to the inspection of any Trustee at all reasonable times and which shall be audited annually by a chartered accountant selected by the Trustees. Such accounts and records shall be available at all reasonable times for inspection by duly authorized members of the Society. Each year, a copy of the audited financial statements shall be available, at all reasonable times, for inspection by any Subscribing Member or Employee.

5.07 The Trustees may obtain policies of insurance and enter into any and all contracts and agreements for carrying out the terms of this Declaration of Trust and for the administration of the Trust Fund and the Benefit Program, and to do all acts ancillary hereto, as they in their discretion may deem necessary or advisable, and such policies, contracts, agreements and acts shall be binding and conclusive upon the Society, Subscribing Members, Employees, and their eligible dependents, families, beneficiaries and/or legal representatives.

6. **ARTICLE VI - CONTRIBUTIONS TO THE TRUST FUND**

6.01 In order to effectuate the purposes hereof, the Contributions shall be made to the Trust Fund. The rate of payment of the Contributions shall be the amounts that the Trustees deem necessary for the proper maintenance of the Benefits Program.

6.02 The Trustees may make periodic written demands of the Society for payments to the Trust Fund.

6.03 Upon receipt of the written demand, the Society shall: (a) make the payment no later than ninety (90) days after receipt of the written demand from the Trustees; or

- (a) if the Society does not intend to pay the amount demanded, the Society shall:
 - (i) within fifteen (15) days of receipt of the written demand from the Trustees, provide written notice to the Trustees that payment of the amount of the demand will not be made, but that payment of a different amount, to be stated in the Notice, will be paid within the 90-day period referred to in 6.03 (a); or
 - (ii) within fifteen (15) days of receipt of the written demand of the Trustees, provide written notice to the Trustees that no payment will be made.

6.04 The Trustees may at any time assess and make demands, upon thirty (30) days written notice to the Subscribing Members, for contributions to the Trust Fund from the Subscribing Members.

6.05 Upon receipt of notice of the demand for payment, the Subscribing Members will have thirty (30) days to make the payment or withdraw from the Benefits Program; and failure to make the demanded payment within the 30-day time period shall be deemed to be a withdrawal from the Benefits Program by the Subscribing Member.

6.06 Contributions to be remitted to the Trust Fund pursuant to this Declaration of Trust, shall be payable and shall be paid in the manner and form determined by the Trustees, after consultation with the society.

6.07 Notice under Article VI of this Declaration of Trust shall be deemed to have been received upon the earlier of five (5) days after the notice is mailed by regular mail or the actual receipt of the written notice by any means.

7. ARTICLE VII - BENEFITS PROGRAM

7.01 The Trustees shall, subject to the terms of this Declaration of Trust, have full authority to determine the nature, amount and duration of benefits to be provided pursuant to the Benefits Program and based on what it is estimated that the Trust Fund or any part thereof allocated with respect to any Plan can provide without undue depletion or excessive accumulation.

7.02 The Trustees shall have full authority to establish and determine eligibility requirements for benefits to be provided pursuant to any Plan and to adopt rules and regulations with respect thereto, all of which shall be binding on the Subscribing Members or Employees and such beneficiaries as may be designated by them.

7.03 The benefits under the Benefits Program shall be provided and maintained by such means as the Trustees shall in their sole discretion determine.

7.04 The detailed basis on which payment of the benefits is to be made pursuant to the Benefit Program shall be specified by appropriate action of the Trustees subject, however, to such changes or modifications by the Trustees from time to time as they, in their discretion, may determine. All such changes or modifications shall similarly be specified in writing by appropriate resolutions by the Trustees.

7.05 The Trustees shall have full authority to disentitle any person to benefits (including future benefits) where such person or any person claiming through such person has made a fraudulent claim or made any misrepresentation with respect to a claim.

8. ARTICLE VIII - ADMINISTRATION OF THE BENEFITS PROGRAM

8.01 The Trustees shall develop procedures to be followed by the Society in reporting Contributions made on behalf of Subscribing Members and Employees.

8.02 The Trustees shall prescribe rules and procedures governing the application by Subscribing Members, Employees, and dependents for benefits, and the furnishing of any evidence necessary to establish the rights of Subscribing Members or Employees and dependents to such benefits.

8.03 The Trustees shall make determinations which shall be final and binding upon all persons as to the rights of any Subscribing Member or Employee and any dependent to benefits, including any rights any individual may have to request a hearing with respect to such determination.

8.04 The Trustees shall appoint and remove from time to time an Administrator and such committees as the Trustees may deem necessary to assist in the handling of the management of the ' Benefits Program and any Plan.

8.05 The Trustees shall make such other rules and regulations as may be necessary for the administration of any Plan and not inconsistent with the purpose of the Trust Fund.

8.06 The Administrator shall assume such duties and responsibilities as may be delegated to him by the Trustees. Without limiting the generality of the foregoing, the rights, duties and obligations of the Administrator may include:

- (a) to keep such records as are necessary to determine each Subscribing Member's rights to benefits under any Plan to determine the amounts of such benefits as they become due;
- (b) to deal with all communications to and from Subscribing Members, Employees and others with respect to any Plan;
- (c) to validate all claims against the Trust Fund and obtain all necessary declarations, certifications and other evidence required for the proper administration of any Plan;
- (d) to attend such meetings of the Trustees as they may be required to attend by order of the Trustees and to execute such instructions as may be given to them and to attend such other meetings in connection with any Plan as they may be required to attend by order of the Trustees;
- (e) to perform such other acts as may be incumbent upon the Administrator by virtue of any applicable law or any regulation adopted under said law; and
- (f) to provide assistance and information to the auditor of the Trust Fund as may be reasonably required for the completion of each audit annually.

8.07 No Subscribing Member, Employee, or any person claiming by or through such Subscribing member or Employee, including their family, dependents, beneficiaries and/or legal

representative, shall have any right, title, or interest in or to the Trust Fund or any property of the Trust Fund or any part thereof except as may be specifically determined by the Trustees in accordance with the terms of any Plan.

8.08 Any action or decision of the Administrator may be appealed by any Subscribing Member or Employee who feels aggrieved within two (2) months or within such other time period as may from time to time be determined by the Trustees, to the full Board of Trustees of Trustees whose decision shall be final and binding.

9. ARTICLE IX - LIMITATION OF LIABILITY

9.01 Neither the Trustees nor any Trustee shall be liable for any error of judgment or for any loss arising out of any act or omission in the administration of the Trust Fund, nor shall they be personally liable for any liability or debt of the Trust Fund contracted or incurred by them or him, nor for the nonfulfillment of any contract, nor shall they be liable for the improper application of any part of the Trust Fund, nor for any other liability arising in connection with the administration or the existence of the Trust Fund; PROVIDED HOWEVER, nothing herein shall exempt the Trustees or any Trustee for any liability, obligation or debt arising out of their or her acts or omissions done or suffered in bad faith or through gross negligence or willful misconduct. The Trustees and each individual Trustee shall not be liable for any error of judgment or for any loss arising out of any act or omission in the execution of their duties so long as they act in good faith without gross negligence; nor shall any Trustee, in the absence of their-own willful misconduct, bad faith or gross negligence be personally liable for the acts or omissions (whether performed at the request of the Trustees or not) of any other Trustee, or of any agent or attorney elected or appointed by or acting for the Trustees.

The Trustees shall be fully protected in acting upon any instrument, certificate or paper believed by them to be genuine and to be signed or presented by the proper person or persons, and shall be under no duty to make any investigation or inquiry as to any statement contained in any such writing, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

The Trustees may, from time to time, consult legal counsel and shall be fully protected in acting upon such advice of counsel to the Board of Trustees as respect legal questions.

9.02 Any person other than the Trustees who are empowered and authorized to sign cheques as aforesaid shall, or their employers shall, each be bonded by a fully authorized security company in such amounts as may be determined from time to time by the Trustees. Any person who may be engaged in handling monies of the Trust Fund shall also be required by the Trustees to be bonded by the duly authorized surety company in the same manner. The cost of the premium on such bonds shall be paid out of the Trust Fund.

9.03 Nothing in this Declaration of Trust shall be construed as making the Society liable for the payments required to be made other than the amounts designated by Article VI of this

Declaration of Trust. Except as expressly provided herein, the Society shall not be liable for the payment of any benefits provided by any Plan.

9.04 The Society shall not be liable for the failure of the Trustees to secure the benefits contemplated herein or in any Plan for any Subscribing Member, Employee, or beneficiary or any person or any default or neglect of the Trustees.

10. **ARTICLE X - MISCELLANEOUS PROVISIONS**

10.01 Under no circumstances shall any portion of the corpus or income of the Trust Fund, directly or indirectly, revert or accrue to the benefit of the Society, or of any Trustee other than for the purposes of the Trust Fund.

10.02 Neither the Society, Subscribing Members, Employees, or any other person, association or corporation shall have any right, title or interest in or to the Trust Fund, save as by this instrument expressly provided.

10.03 No person, partnership, corporation or association dealing with the Trustees shall be obliged to see to the application of any funds or property of the Trust fund, or to see that the terms of this Declaration of Trust have been complied with, or be obliged to enquire into the necessity or expediency of any act of the Trustees.

10.04 The Trustees shall provide, or cause to be provided, and make available to each Subscribing Member and Employee, in summary form, a statement of the essential features of any Plan.

10.05 Notice given to a Trustee, the Society or any other person shall, unless otherwise specified herein, be sufficient if sent in writing or sent by prepaid first-class mail, or prepaid telegram, to the last address as filed with the Trustees. Except as herein otherwise provided, the delivery of any statement or document required hereunder to be made to the Trustees, the Society, Subscribing Member or an other person shall be sufficient if delivered in person, or if mailed by prepaid first-class mail to the last address as filed with the Trustees, and shall be deemed to be received on the earlier of the actual date of receipt or the twenty-first (21) day after being so mailed.

10.06 Any questions arising in connection with the discharge of this Declaration of Trust not herein specifically provided for shall be left to the sole discretion of the Trustees.

10.07 The Trustees may seek judicial protection by any action or proceedings they may deem necessary to settle their accounts, or to obtain judicial determination or declaratory judgment as to any question of construction of this Declaration of Trust or instruction as to any action thereunder. Any such determination shall be binding upon all persons to or claiming under this Declaration of Trust.

10.08 To the extent so determined in Court, the costs and expenses of Trustees of any action, suit or proceeding brought by or against the Trustees or any of them, (including counsel fees),

shall be paid from the Trust Fund, except in relation to matters as to which it shall be adjudged in such action, suit, or proceeding that such Trustees were acting in bad faith, or were grossly negligent in the performance of their duties hereunder, in which event such determined costs and expenses shall be the personal liability of the respective Trustees.

10.09 No money, property, equity or interest of any nature whatsoever in the Trust Fund or in any benefits or monies payable therefrom shall be subject in any manner by any Subscribing Member, Employee, retired Subscribing Member, retired Employee, or beneficiary or person claiming through any of them to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, garnishment, lien or charge; and any attempt to cause the same to be subject thereto shall be null and void.

11. **ARTICLE XI - AMENDMENT TO THIS DECLARATION OF TRUST**

11.01 This Declaration of Trust may only be amended by a declaration in writing duly executed by the Board of Directors.

11.02 Whenever an amendment is adopted in accordance with this Article, a copy thereof shall be distributed to all necessary parties.

12. **ARTICLE XII - TERMINATION OF TRUST**

12.01 This Declaration of Trust may be terminated at any time by a declaration in writing duly executed by the Board of Directors.

12.02 This Declaration of Trust may also be terminated by declaration of the Trustees when they, in their sole discretion, are of the opinion that the contributions that are, or may be, available to them, are insufficient to allow them to carry out the purposes of this Declaration of Trust.

12.03 In the event of the termination of this Declaration of Trust, the Trustees shall apply the Trust Fund to pay or to provide for the payment of any and all benefits due under any Plan and shall distribute and apply any remaining surplus to additional benefits in such manner as will, in their opinion, best effectuate the purpose of the Trust Fund; provided, however, that no part of the corpus or income of the Trust Fund shall be used for or diverted to purposes other than for exclusive benefits for the Subscribing Members, their families, beneficiaries or dependents, or the administrative expenses of the Trust Fund or for other payments in accordance with the provisions of this Declaration of Trust.

12.04 Upon termination of the Trust Fund in accordance with this Article, the Trustees shall forthwith notify all necessary parties; and the Trustees shall continue as Trustees for the purpose of winding up the affairs relating to the Trust Fund, and providing all reports as deemed necessary by the Board of Directors.

13. **ARTICLE XIII – TITLES**

13.01 The Title headings to the various Articles are for the purpose of convenience only and shall not have any legal significance apart from the text.

14. **ARTICLE XIV - SEVERABILITY AND TITLES**

14.01 Should any provision in this Declaration of Trust or in any Plan or in any Collateral Agreement be deemed or held to be unlawful or invalid for any reason, such fact shall not adversely affect the other provisions herein and therein contained, unless such illegality shall make impossible or impractical the functions of the Trust Fund and any Plan and, in such case, the Board of Directors shall immediately adopt a new provision to take the place of the illegal or invalid provision.

15. **ARTICLE XV - SITUS AND CONSTRUCTION OF DECLARATION OF TRUST**

15.01 All questions pertaining to the validity, construction and administration of the Declaration of Trust shall be determined in accordance with the laws of the Province of Nova Scotia.

The Board of Directors have hereto set their hands and seals as of the day and year first above written.

Witness:

**BOARD OF DIRECTORS OF
DOCTORS NOVA SCOTIA**

Per: _____

Per: _____

Per: _____

Per: _____